

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RAFAEL A. LASKOWSKI, as
parent and natural guardian
of VIVIAN LASKOWSKI, an
infant,

Plaintiff,

-against-

MOUNTAIN CREEK RESORT, INC.,

Defendant.

NOTICE OF REMOVAL

Supreme Court of the State of New
York County of Nassau
Index No. 603597/2022

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant, Mountain Creek Resort, Inc., by and through its attorneys, Hueston McNulty, P.C., submit this Notice of Removal from the Supreme Court of the State of New York Nassau County, in which this matter is now pending, to the United States District Court for the Eastern District of New York. In support of this Notice of Removal, Defendant states as follows:

BACKGROUND

1. This lawsuit is a civil action within the meaning of 28 U.S.C. §§ 1441(a) and 1446(b).

2. The plaintiffs commenced this action on or about March 22, 2022 in the Supreme Court of the State of New York Nassau County by filing a Verified Complaint bearing Index No. 603597/2022. A copy of the Complaint is attached as **Exhibit "A."**

3. The plaintiffs, Rafael A. Laskowski and Vivian Laskowski, are citizens of the State of New York and were citizens of the State of New York when this action was commenced in State Court. **Exhibit "A,"** Paragraph 1.

4. Plaintiffs' Complaint stems from an accident on February 25, 2022 at Mountain Creek Resort, 200 Route 94, Vernon Township, New Jersey, when Vivian Laskowski alleges she was struck in the head, neck and back by a ski lift chair. **Exhibit "A,"** Paragraphs 2, 3, 12 and 13.

5. This Notice of removal is filed within 30 days of service of the initial pleading by Defendant, and within one year of the commencement of this action as mandated by U.S.C. § 1446(b). Accordingly, removal is timely.

AMOUNT IN CONTROVERSEY/JURISDICTION

6. Plaintiffs' Complaint seeks relief against the Defendant for negligence, carelessness, recklessness and/or willful conduct and vicarious liability. **Exhibit "A,"** Paragraphs 14, 16, 17, 18, 19 and 26.

7. Although the Defendant denies all liability to the Plaintiffs, based on the allegations in Plaintiffs' Complaint it appears to the Defendant within a reasonable probability that this action satisfies the amount in controversy requirement of 28 U.S.C. § 1332(a) as the amount in controversy exceeds \$75,000, exclusive of interest and costs. The basis for Defendant's reasonable

probability are the following allegations in Plaintiffs' Complaint.

Exhibit "A," paragraph 13 states:

Plaintiff was struck in the head, neck and back and thrown violently by the ski lift while she struggled to intervene in the imminent hazard occurrence of uncontrolled ski lift movement . . . ; the ski lift equipment and chair violently striking and throwing the Plaintiff-Infant Vivian Laskowski.

Exhibit "A," paragraph 26 states:

As a result of the ski lift accident . . . Plaintiff-Infant was severely injured and damaged and was rendered sick, sore, lame and disabled, sustained nervous shock and mental anguish, great physical pain and emotional upset, some of which injuries are permanent in nature and duration and Plaintiff will be permanently caused to suffer pain, inconvenience and other effects of such injuries; Plaintiff-Infant incurred and in the future will necessarily incur further hospital and medical expenses and in the future will necessarily suffer additional medical expenses and other economic losses.

DIVERSITY OF CITIZENSHIP

8. On March 23, 2022, Plaintiff mailed the Summons and Verified Complaint by first class mail to Mountain Creek Resort, 200 Route 94, Vernon Township, New Jersey 07462. Copies of the

Affirmation of Service and Affirmation of Redundant Mail Service are attached **as Exhibit "B."**

9. The Defendant is a citizen of a state other than the State of New York and was a citizen of a state other than the State of New York when this action was started in State Court. Mountain Creek Resort, Inc. is (and was) a corporation incorporated in the State of New Jersey with its principal place in business in New Jersey.

10. Given the facts and circumstances set forth above, this constitutes an action which originally could have been brought before this Court pursuant to 28 U.S.C. § 1332 and which may be removed pursuant to 28 U.S.C. § 1441(a)(1) because it is a civil action between citizens of different states and the amount in controversy, within a reasonable probability, will exceed the sum or value of \$75,000.00, exclusive of interests and costs.

11. The Court has subject-matter jurisdiction based on diversity of citizenship under 28 U.S.C. § 1332. Venue is proper pursuant to 28 U.S.C. § 1441(a) as this is the Federal District Court for the District where the State Court suit is pending.

12. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders served upon Defendant in this action as of the date of filing of this Notice of Removal is attached as **Exhibits "A," "B" and "C."**

13. This Notice of removal will be served on all parties in accordance with 28 U.S.C. § 1446.

14. A true and correct copy of this Notice of Removal will be filed with the clerk of the Supreme Court of the State of New York Nassau County, in accordance with 28 U.S.C. § 1446.

WHEREFORE, Defendant files this Notice of Removal so that the entire State Court action under Index No. 603597/2022, now pending in the Supreme Court of the State of New York Nassau County, is removed to this District Court for all further proceedings.

Dated: April 20, 2022

HUESTON MCNULTY, P.C.

Attorneys for Defendant, Mountain
Creek Resort, Inc.

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